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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition No. 1332 of 2001

Petitioner

1) Bharat Industrial Works (Bhilai) Private Limited, a Company Incorporated under Cos.' Act, 1956, having its Regd.Office at 61 Industrial Estate, Nandini Road, Bhilai – 490 026, Dist. Durg (CG).

Versus

Respondents

1) State of Chhattisgarh, through Collector, Durg.

2) The Inspector General of Registration & Superintendent of Stamps, Government of Chhattisgarh, Raipur (CG).

3) District Registrar & Collector of Stamps, Durg (CG).

4) UCO Bank, a body Corporate having common seal and perpetual succession, having Industrial and Finance Branch, Sector-1, Bhilai, Distt. Durg (CG).

(Writ Petition under Article 226/227 of the Constitution of India)

SB: Hon'ble Mr. Satish K. Agnihotri, J.

Present: None appears for the petitioner.
Shri Vivek Sharma, Panel Lawyer for the respondents No. 1 to 3/State.
Shri P.R. Patankar, counsel for the respondent No.4.

ORAL ORDER
(Passed on 11th December, 2007)

Learned counsel appearing for the respondents No. 1, 2 and 3/State as well as the respondent No.4 jointly submit that the facts and question of law involved in this petition is covered by the judgment and order dated 11-3-2005 passed by this Court in Writ Petition No. 4276/96 (Murarilal Agrawal & another Vs. The State of M.P. & others).

2) I have gone through the pleadings and documents appended thereto and I have heard learned counsel appearing for the respondents also. I am of the considered opinion that this case is squarely covered by the judgment and order dated 11-3-2005 passed by this Court in Writ Petition No. 4276/96 (Murarailal Agrawal's case (supra)).

(91) (89)

3) Accordingly, the petition stands disposed of with the same terms and conditions, which are as follows:

(a) There is a difference between the two concepts, namely stamp duty and rate of duty;

(b) The State Legislature has the competence to provide the rates of stamp duty as per Entry 63 read with Entry 44 of List –III of the Seventh Schedule of the Constitution;

(c) There is no discrimination because a document relating to immovable property is liable to extra stamp duty under Section 75 of the 1993 Act, because it is situated within the block whereas a similar property is not liable to excess duty solely on the ground it is situated within the Municipal area;

(d) Section 75 of the 1993 Act is intra vires and the proviso to Section 75 is to be given retrospective effect from the date when Section 75 came into force i.e., 25-1-1994; and

(e) The retroactivity would have limited effect so that the persons who have not paid the stamp duty would be liable to pay under the proviso but the persons who have paid under the main provision would not be entitled to refund.

Certified copy, in accordance with Rules.

Sd/-
Satish K. Agnihotri
Judge

Raju